

§ 11.13

§ 11.13 Decision by the Director.

Upon expiration of the period required or granted for filing of a petition for relief, the Director shall proceed to make an assessment of a civil penalty, taking into consideration information available to him and such showing as may have been made by the respondent, either pursuant to § 11.11 or § 11.12, or upon further request of the Director.

§ 11.14 Notice of assessment.

The Director shall notify the respondent by a written notice of assessment, by personal service or by registered or certified mail, return receipt requested, of his decision pursuant to § 11.13. He shall set forth therein the facts and conclusions upon which he decided that the violation did occur and appropriateness of the penalty assessed.

§ 11.15 Request for a hearing.

Except where a right to request a hearing is deemed to have been waived as provided in § 11.11, the respondent may, within 45 calendar days from the date of the notice of assessment referred to in § 11.14, file a dated, written request for a hearing with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203. The request should state the respondent's preference as to the place and date for a hearing. The request must enclose a copy of the notice of violation and notice of assessment. A copy of the request shall be served upon the Director personally or by registered or certified mail, return receipt requested, at the address specified in the notice.

§ 11.16 Final administrative decision.

(a) Where no request for a hearing is filed as provided in § 11.15 the Director's assessment shall become effective and shall constitute the final administrative decision of the Secretary on the 45th calendar day from the date of the notice of assessment.

(b) If a request for a hearing is timely filed in accordance with § 11.15, the date of the final administrative decision in

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the matter shall be as provided in subpart C of this part.

§ 11.17 Payment of final assessment.

When a final administrative decision becomes effective in accordance with this part 11, the respondent shall have 20 calendar days from the date of the final administrative decision within which to make full payment of the penalty assessed. Payment will be timely only if received in Office of the Director during normal business hours, on or before the 20th day. Upon a failure to pay the penalty, the Solicitor of the Department may request the Attorney General to institute a civil action in the U.S. District Court to collect the penalty.

Subpart C—Hearing and Appeal Procedures

§ 11.21 Commencement of hearing procedures.

Proceedings under this subpart are commenced upon the timely filing with the Hearings Division of a request for a hearing, as provided in § 11.15 of subpart B. Upon receipt of a request for a hearing, the Hearings Division will assign an administrative law judge to the case. Notice of assignment will be given promptly to the parties, and thereafter, all pleadings, papers, and other documents in the proceeding shall be filed directly with the administrative law judge, with copies served on the opposing party.

§ 11.22 Appearance and practice.

(a) Subject to the provisions of 43 CFR 1.3, the respondent may appear in person, by representative, or by counsel, and may participate fully in these proceedings.

(b) Department counsel designated by the Solicitor of the Department shall represent the Director in these proceedings. Upon notice to the Director of the assignment of an administrative law judge to the case, said counsel shall enter his appearance on behalf of the Director and shall file all petitions and correspondence exchanged by the Director and the respondent pursuant to subpart B of this part, which shall become part of the hearing record. Thereinafter, service upon the Director